

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Operating Engineers Local #49 Health
and Welfare Fund, Central Pension Fund
of the International Union of Operating Engineers
and Participating Employers, Local #49
International Union of Operating Engineers and
Associated General Contractors of Minnesota
Apprenticeship and Training Program and their
Trustees,

Civil No. 10-03955 (JNE/JSM)

Plaintiffs,

ORDER

v.

Mesabi Bituminous, Inc.

Defendant.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Janie S. Mayeron dated January 4, 2011. No objections have been filed to that Report and Recommendation in the time period permitted.

Based on the Report and Recommendation of the Magistrate Judge, upon all of the files, records and proceedings herein, the Court now makes and enters the following Order.

IT IS HEREBY ORDERED that:

1. Plaintiffs' Motion for Entry of Judgment is hereby DENIED without prejudice.
2. Plaintiffs may renew their motion after Mitchell Brunfelt or other legal counsel for MBI enters a notice of appearance and files a document signifying MBI's

acknowledgment of service of the Complaint, decision not to answer the Complaint, and lack of opposition to the entry of judgment. Alternatively, pursuant to Fed. R. Civ. P. 4(m), plaintiffs shall serve their Complaint within sixty (60) days of this Order, and if MBI does not interpose an answer within the time allowed, apply for and obtain an Entry of Default Judgment from the Clerk of Court and then renew their motion for entry of judgment.

Dated: 2-23-2011

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge